

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL CASE NO. 1:12cr25

UNITED STATES OF AMERICA,

vs.

DEBORAH LEE TIPTON.

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ORDER

THIS MATTER is before the Court on the United States' Motion for Court Appointed Guardian *ad Litem* pursuant to 18 U.S.C. §3509(h) [Doc. 29].

PROCEDURAL HISTORY

On April 4, 2012, the Defendant was charged in a three count Bill of Indictment with sexual exploitation of a minor, distribution of child pornography, and possession of child pornography, in violation of 18 U.S.C. §§2251(a), 2252(a) & 2252(b). [Doc. 1]. The Defendant originally received court-appointed counsel; however, on May 23, 2012, Jack Stewart filed a Notice of Appearance as retained counsel. [Doc. 15].

On the same day that counsel appeared, he filed the following motions: (1) a Motion to Suppress [Doc. 16]; (2) a Motion for Leave to File Pre-Trial Motions [Doc. 18]; (3) a Motion to Disclose Document(s) [Doc. 19]; (4) a Motion for Independent Forensic Examination of Computer Hardware, Computer Software and Visual Images [Doc. 20]; and (5) a Motion for

Discovery [Doc. 21]. The next day, counsel filed a Motion for Privacy Protection/Protection Order pursuant to which he requested that the Motion to Suppress be sealed and that he be allowed to submit a redacted motion which did not contain identifying information concerning a minor victim. [Doc. 24] .

By Order entered on June 19, 2012, the Hon. Max O. Cogburn, who handled this matter on a temporary basis, granted counsel leave to file pre-trial motions within thirty days of his Order, that is, on or before July 19, 2012. [Doc. 27 at 2]. The motions for discovery, the production of documents and independent forensic examination were granted. [Id. at 2-3]. Concerning the Motion to Suppress, Judge Cogburn ruled that it should be stricken from the record along with any other pleading which contained child-victim identifiers. [Id. at 3-4]. Defense counsel was instructed to re-file any pre-trial motions, including any motion to suppress, in redacted form on or before the thirty day period within which pre-trial motions could be filed; that is, on or before July 19, 2012. [Id.]. No motion to suppress or other pre-trial motions in redacted form have been filed by defense counsel.

On July 11, 2012, the Government moved for the appointment of a guardian *ad litem* for the minor victim. [Doc. 29]. The Defendant has not filed any response to the motion.

DISCUSSION

18 U.S.C. §3509(h) provides in pertinent part:

The court may appoint, and provide reasonable compensation and payment of expenses for, a guardian *ad litem* for a child who was a victim of ... a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs and child abuse issues. The guardian *ad litem* shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

18 U.S.C. §3509(h).

The Government has proposed Emily Cowan of Hendersonville, North Carolina. [Doc. 29]. Ms. Cowan, who is an attorney, serves as the alternate Guardian *ad Litem* for North Carolina cases brought in state court and thus is familiar with the judicial process, social service programs and child abuse issues. [Id.]. Ms. Cowan has already served on behalf of Minor Victim 1 in a related investigation by the Henderson County Department of Social Services.¹ [Id.]. The Government has not stated whether Ms. Cowan is likely to be a witness in any proceeding involving the child but the Court will so order.

ORDER

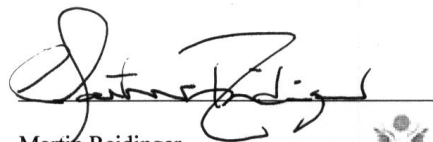
IT IS, THEREFORE, ORDERED that the United States' Motion for Court Appointed Guardian *ad Litem* pursuant to 18 U.S.C. §3509(h) [Doc. 29] is hereby **GRANTED**.

¹The minor victim is identified in this manner to avoid the disclosure of identity.

IT IS FURTHER ORDERED that Emily Cowan, attorney at law, is hereby **APPOINTED** Guardian *ad Litem* on behalf of Minor Victim 1 and shall comply with the duties of a guardian *ad litem* as specified in 18 U.S.C. §3509(h)(2) and she may not be a witness in a proceeding involving Minor Victim 1.

IT IS FURTHER ORDERED that no motion to suppress having been filed in redacted form on or before July 19, 2012, the Clerk of Court is instructed to terminate the Motion to Suppress contained within Document 16 (which has been stricken) as a pending motion.

Signed: August 9, 2012


Martin Reidinger
United States District Judge

